

** E-filed October 31, 2011 **

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8 Counsel for Watercraft Superstore Inc.

9
10 U.S. District Court
Northern District of California, San Jose Division

11 West Marine Inc. Plaintiff
12 vs.
13 Watercraft Superstore Inc.
14 Defendant

15 Case No. 5:11-cv-04459-HRL

16 **Stipulation and [Proposed] Order**

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The parties in this case have reached a stipulation that they jointly request to be entered as an order of the Court. This stipulation to allow Defendant Watercraft Superstore Inc. (“Watercraft”) to conduct limited venue discovery regarding Watercraft’s motion to dismiss or, in the alternative, transfer venue, is entered into by and between Plaintiff West Marine Inc. (“West Marine”) and Defendant through their counsel of record.

RECITALS

This Stipulation is entered into with reference to the following facts:

A. On August 11, 2011, West Marine filed its Complaint against Watercraft, in the Superior Court for the State of California, County of Santa Cruz.

B. On September 7, 2011, Watercraft filed its notice of removal, removing this case from the Superior Court for the State of California, County of Santa Cruz, to the United States District Court for the Northern District of California.

C. On September 14, 2011, Watercraft filed its motion to dismiss the Complaint or, in the alternative, transfer venue to the Middle District of Florida. The motion alleges that this Court has no personal jurisdiction over Watercraft and that, if the Complaint is not dismissed, the Middle District of Florida is a more convenient and appropriate venue and the case should, thus, be transferred. Watercraft's motion was originally set to be heard before this Court on October 25, 2011, but has since been continued. The parties previously stipulated to extend the briefing schedule such that West Marine's opposition is due on or before December 14, 2011, and Watercraft's reply will be filed on or before December 21, 2011.

D. Counsel for Plaintiff and Defendant have met and conferred in writing and telephonically regarding an agreement by which Watercraft would be permitted to take limited venue discovery.

STIPULATION

Based upon the foregoing, the parties hereby stipulate, by and through their counsel of record, as follows:

1. Watercraft will serve interrogatories, requests for admission, and/or requests for production of documents on venue issues on or before ~~October~~^{November 2} 28, 2011.

1 2. All discovery discussed in this Stipulation will be limited to venue issues.

2 Date: October 26, 2011

3 Respectfully submitted,

4 Mount, Spelman & Fingerman, P.C.

5 _____
6 /s/ Benjamin R. Lemke

7 Counsel for Watercraft Superstore Inc.

8 Date: October 26, 2011

9 Greenberg Traurig, LLP

10 _____
11 /s/ Lisa McCurdy

12 Counsel for West Marine, Inc.

13 As the attorney electronically filing this document, I attest that each above signatory has
14 concurred in this filing.

15 Date: October 26, 2011

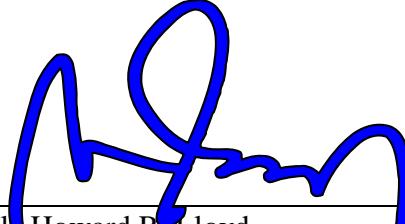
16 Mount, Spelman & Fingerman, P.C.

17 _____
18 /s/ Benjamin R. Lemke

19 Counsel for Watercraft Superstore Inc.

20 Pursuant to stipulation, it is so ordered.

21 Date: October 31, 2011

22 
23 _____
24 Honorably Howard R. Lloyd
25 United States District Court Magistrate Judge

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